

CHAPTER OVERVIEW

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30.1 Introduction and Position Statement

In keeping with the Division's goal to achieve permanency for all children in the care and custody of the Children's Division, adoptive/legal guardianship placement is a preferred arrangement rather than that of an alternative planned long-term living arrangement or placement in residential treatment. This goal is founded in the belief that every child has a right to a permanent and stable family. Thus, adoption or legal guardianship is a desired outcome for children who cannot be reunified with their families. Adoption subsidy is a service that may be used to assist in providing permanency for children who, because of special needs, might not otherwise be adopted, and for whom a family is not readily available. Subsidized guardianship services may be used to assist a grandparent, aunt, uncle, adult sibling or adult first cousin to the child in providing legal guardianship for eligible children. Payment for maintenance (basic rate), day care, and Medicaid is available to meet the needs of the child. The payment is intended to aid the development, adjustment and continuity of the "new" family created by adoption or legal guardianship. Significant to the use of an adoption/legal guardianship subsidy, is the realization that without this resource a family would not otherwise have the resources to provide permanency to a special needs child.

The Division's philosophy and practice in the adoption and legal guardianship subsidy program is to promote and develop a collaborative effort between the Division's staff and the adoptive or kinship family to meet the special needs of the child. The adoption/legal guardianship subsidy may be continued until the child reaches age 18 or graduated from High School. Subsidy may be approved to continue up to age 21 in some special circumstances, depending on the annual review of the subsidy agreement and the child's ongoing special needs which render them dependent upon the services in the agreement. Agreements will be renewed annually, unless the family seeks changes or the review indicates changes are needed. As a child reaches majority age, referrals to other state services may be necessary to continue and maintain self-help capacities developed in childhood and adolescence.

Additionally, this Division assists the Division of Youth Services (DYS), the Department of Mental Health (DMH) and licensed child-placing agencies by authorizing an adoption or legal guardianship subsidy for eligible children who are in their custody and are placed for adoption or guardianship. These children must meet eligibility requirements of the subsidy programs.

Related Subjects: Chapter 11, of this section, Financial Support Planning.
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30.2 Definition and Purpose

An adoption subsidy is available to a child who is designated as having special needs (section 453.065, RSMo) and who does not have an adoptive family readily available. It is available to children in the care of this Division, DYS, DMH and licensed child-placing agencies. Under certain conditions, it may also be available to a child who is not now in the custody of one of the above referenced agencies but who, at one time, was in the custody of the Children's Division.

Payment for maintenance, Medicaid, and daycare are authorized through an adoption/guardianship subsidy agreement and its attachment(s) (CS-SA-2). This agreement is developed through a collaborative effort between the adoptive family and the Division as the needs of the child are assessed.

An Adoption Subsidy Agreement must be approved by the Division Director prior to the final decree of adoption. Payment for services may not begin until the Division Director has signed the CS-SA-2(s) and placement has occurred. Subsidized Guardianship agreements must be approved by the Division Director following the appointment of guardianship to the relative.

NOTE: When developing a subsidized guardianship, a copy of the order giving the Division, DYS, DMH or the private agency custody, and a copy of the guardianship order must be provided with the subsidy paperwork
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The CS-SA-2/CS-LG-2 is a legally binding agreement. Any services, including maintenance, must be included in the attachment if payment is to be made.

Contracts (CS-SA-2/CS-LG-2) must be reviewed with the adoptive/kinship parent(s) at least annually. If no changes are indicated, the contract may be automatically renewed. Agreement attachment(s) (CS-SA-2 ATT/CS-LG-2 ATT) may be changed at the annual review, or at the request of the adoptive parent(s).

No pencil, white out, or other alterations may be made in the agreement.

30.2.1 Children's Services

It must be remembered that, although there may be a subsidy involved, the family is an adoptive or kinship family. Therefore, we must recognize that the family, like other families, has the same rights and responsibility to manage their own lives and that of their child after the final decree of adoption or legal guardianship is granted. There is to be no automatic continuation of services. The family, like other families, may utilize any appropriate community service or resource (including the Division) to assist with service needs that develop at a later time. However, with the Division's commitment to seek permanency for children with special needs through adoption or legal guardianship, it is recognized that families providing permanency for these children may need placement support services beyond the granting of a decree of adoption or legal guardianship. We are to extend to these families our assistance to make the adoption or legal guardianship a success. The family should be informed that staff will be available to provide needed and appropriate services, i.e., the family may request adoption or guardianship services any time after the decree of adoption or legal guardianship.

30.3 Legal Basis and Funding Source

The Missouri Adoption Subsidy Program is authorized by sections 453.065, 453.073 and 453.074, RSMo, and permits the Division to make subsidy payments on behalf of eligible special needs children to adoptive families to cover maintenance, medical and dental care, and other special expenses. This program was first effective September 28, 1973. Legislation passed by the 83rd General Assembly and effective September 28, 1985, authorized the Division to use adoption subsidy funds for children in the custody of DMH and DYS at the time of their placement for adoption. This legislation also clarified that children in the custody of a dually licensed private child-placing agency are eligible for an adoption subsidy. A subsidy authorized for such children uses Division adoption subsidy appropriations and Division methods for administering the program.

NOTE: Children in the custody of Class I juvenile courts are not eligible for the Missouri Adoption Subsidy Program (MASP) as discussed in this attachment. However, they may be eligible for payment of non-recurring adoption expenses only.
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Title IV-E of the Social Security Act, modified through the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), authorized Federal Financial Participation (FFP) in an adoption subsidy if the child, while in the custody of the Children's Division, was eligible

for IV-E alternative care. Also, this eligibility automatically causes the child to be eligible for the Missouri Medical/Dental Services (Medicaid) program. Children, eligible for SSI and covered by an adoption subsidy agreement, are also eligible for Medicaid.

The Consolidated Budget Reconciliation Act of 1986 (COBRA), also known as P.L. 99-272, authorized several amendments to Titles IV-E and XIX of the Social Security Act, effective October 1, 1986. These amendments permit the child who is eligible for adoption subsidy IV-E to receive Title XIX (Medicaid) and Title XX services in the state of residence as long as there is an adoption subsidy agreement in place with the original state of residence. Also, these amendments eliminated the requirement that a IV-E child must receive a maintenance payment to receive Medicaid.

The Missouri legislature enacted legislation, effective September 28, 1985, permitting the Division to become a signatory state to the Interstate Compact for Adoption and Medical Assistance (ICAMA). Missouri became a signatory state in January 1986. For the member states, this compact authorized the IV-E child to receive Medicaid from the resident state. The intent is to assure that no break occurs in the child's receipt of Medicaid services when the child moves to another state.

Related Subject: Chapter 25, of this section, Interstate Placements (ICPC & ICAMA).

The Tax Reform Act of 1986 (P.L. 99-514) also authorized, effective January 1, 1987, payment for maintenance for eligible Title IV-E children to begin with the date of placement as long as there is an adoption subsidy agreement signed by the Division Director. This amendment to Title IV-E of the Social Security Act eliminated the previous requirement that eligible children be in the custody of the adoptive parent(s) for the purpose of adoption to use IV-E funds.

P.L. 99-514 requires states to pay certain nonrecurring expenses of all special needs children who meet the eligibility requirements.

The Adoption and Safe Families Act (ASFA) of 1997 requires that Medicaid is provided for children who have a state funded adoption assistance agreement. A child who has been determined by the state to have special medical, mental health, or rehabilitative needs cannot be placed for adoption without medical assistance. This is also part of the requirement for waiver demonstration incentive payments.

Funding for the Division's program is derived from three (3) sources:

- Appropriations made from Missouri's general revenue;
- Appropriations authorized through Title IV-E of the Social Security Act; and
- Appropriations authorized under Title XIX of the Social Security Act.

Other possible funding sources for a subsidy plan are Veteran's Assistance (VA) administered by the U.S. Veteran's Administration, and Supplemental Security Income (SSI) and the Old Age Survivors and Dependents Insurance (OASDI) programs administered by the federal Social Security Administration (SSA). In rare instances, a specific child may have other sources of income that will follow the child into adoption.

The Legal Guardianship Subsidy Program is authorized by Missouri legislation, Senate Bill 1, was effective August 28, 1999. This subsidy program will be funded by state adoption subsidy funds only. **Federal funds cannot be used for this program.**

30.4 General Policy

- A. For the Division to subsidize an adoption or legal guardianship, the adoptive or guardian parent(s) must sign an agreement. This agreement will cover only those services for which the Division has agreed to pay. In certain instances and depending on the needs of the child, services may be purchased only from a provider with whom the Division has a contract. In other instances a child's needs may require a service not available from a provider with whom the Division has a contract. Such services must be included in the agreement which provides a mechanism for a required prior authorization from the Division.
- B. Subsidy forms, CS-SA-1, CS-SA-2, CS-LG-1, CS-LG-2 and its attachments must be reviewed and approved by the Regional Designee prior to the signing of the agreement (CS-SA-2 or CS-LG-2) by the Division Director. Payment for the services included in the agreement may not begin until the Division Director has signed the agreement.

NOTE: A complete set of subsidy forms, CS-SA-1, CS-SA-2, CS-SA-2 ATT or CS-LG-1, CS-LG-2, CS-LG-2 ATT, are to be completed for each child being either adopted or placed under guardianship. As services are requested or need to be updated, the only form needed to be changed is either the CS-SA-2 ATT or CS-LG-2 ATT.

NOTE: Subsidies which provide the basic subsidy package (see "D" below) only, may be signed by the Circuit Manager and then sent on to Central Office for the Division Director's signature on the agreement.

NOTE: Any agreement which will utilize Title IV-E as a funding source must be signed by the Director prior to the court's granting of the decree of adoption. If it is important for payment to begin with the date of placement, the agreement must be signed by the Director effective on the date of placement (i.e., some children may be placed prior to the petition being filed. Adoptive funding can only be used after the petition is filed.). Title IV-E funds will not be used as a funding source for the Legal Guardianship Subsidy Program.

- C. Children placed in the custody of the Division with a history of abuse and/or neglect may be defined as children having special needs and are, therefore, eligible for subsidy.
- D. All children who are adopted or placed for legal guardianship with an eligible kinship through the Children's Division are eligible for the following basic subsidy services:
1. Maintenance (daily living expenses including room and board, clothing and incidentals) at base rate;
 2. Medicaid; and
 3. Day care – if both parents/guardians or the single parent/guardian is working.

NOTE: The prospective adoptive or kinship family may elect to decline any or all of these services.

4. Attorney fees at \$100.00 per hour and court fees, (up to \$1,500.00 in non-contested cases, and \$3,000.00 in contested cases) related to the adoption of the child. In guardianships court and attorney fees up to \$1,500.00 may be approved if the guardianship is contested or the attorney can show why it took longer.
5. Private agency fee reimbursement up to \$3,500.00. Such costs may include the adoption study, including health and psychological examination, and supervision of the placement prior to adoption finalization.

NOTE: In cases of employee adoption, The Children's Division maintains contractual arrangements with certain licensed child-placing agencies to provide special adoption services to children in Children's Division custody. The services include recruitment, pre-placement, placement, post-placement, finalization and post-finalization for families who accept a special needs child. Authorization and payment for these services is processed via the CS-65. When adoption agency fees are paid through this contractual arrangement, the amount is to be included in the CS-SA-2 or the CS-LG-2 attachments.

6. Travel, food and lodging costs for the child and the adoptive parent(s) or legal guardian(s) and related to the child's placement and adoption may be reimbursed up to \$1,000.00.
- E. When developing a subsidy agreement with a prospective adoptive parent(s) or legal guardian(s) they are to be asked to identify those needs of the child for

which they can assume financial responsibility. It is not necessary for staff to document the detailed income and expenses of the adoptive or kinship family.

NOTE: Although it is not necessary for staff to document the detailed income and expenses of the adoptive or kinship family, we still believe that we need to help the prospective adoptive and kinship families recognize that they bring many resources, both emotional and physical, to the child and encourage them to use these resources. Staff are to document this information in the narrative section of the subsidy file.

- F. In arriving at a subsidy agreement, resources available to the child, the prospective adoptive or kinship family, and through the local community must be reviewed. Generally, the agreement developed must reflect resources used before the Division's adoption or legal guardianship subsidy resources are used.
1. Other unique conditions of the child present at the child's placement for adoption or legal guardianship that may require assistance via MASP if the parents are unable to provide the resources or there are no other community resources that could meet the needs of the child.
- Subsidy may assist the family with other services as requested by the adoptive family or legal guardian. A needs assessment must be conducted with the family. This assessment should include a review of the family and community resources available to meet the child's need, as well as documentation of the need from appropriate professionals. Staff should also review with the family the anticipated future needs of the child in order to prepare the family for what lies ahead. These needs are to be documented in the narrative section of the family's subsidy record. However, future needs may not necessarily be approved. Only those services in policy at the time of the request will be approved.
- G. Subsidy agreements (CS-SA-2/CS-LG-2) are considered a contract, which must be reviewed annually and renewed prior to the end of the Missouri fiscal year (i.e., June 30, 2XXX). Contracts are automatically renewed unless changes are agreed to as a result of the annual review or requested by the adoptive parent(s) or legal guardian(s). However, if approved services on the attachment (CS-SA-2 ATT/CS-LG-2 ATT) have expired, a new attachment must be developed between the family and the agency.
- H. The adoptive parent(s)/legal guardian(s) should be encouraged to make application for SSI with the local SSA office for any potentially eligible children. Adoptive parents, accepting a child for adoptive placement who is eligible for IV-E adoption subsidy, have the right to determine whether SSI or adoption subsidy IV-E would be more appropriate to meet the maintenance payment for the child in the context of his/her and their circumstances. The adoptive parent may receive both funds, however, the SSA office may reduce the SSI amount the child receives, dollar for dollar, by the amount the child is receiving in subsidy. If IV-E is

used, it is required that the agreement be approved prior to granting the adoption. If the family decides to accept SSI, the CSW will need to update the client's fund code from '04' to '05', and update the XIX begin date simultaneously to reflect when fund "05" begins.

Since SSI services include a grant for daily living expenses and eligibility for Medicaid, Division funds may continue to meet other special expenses if within established policies.

During the time children received out-of-home care services, they may have been eligible for an SSI grant. Upon adoption or legal guardianship, they may be determined eligible for a limited SSI grant, or ineligible for SSI because of this program's requirements. Should this occur, HDN adoption subsidy grants can be used to meet the needs of a child.

A child, IV-E or non IV-E, covered by an adoption subsidy agreement who is eligible for SSI is also eligible for Medicaid FFP. In this case, fund category "05" is reported on the SS-61. If the child becomes ineligible for SSI, the child's fund category shall be changed to "03" or "04" depending on the child's eligibility for IV-E prior to the final adoption. Children covered by a subsidized guardianship agreement are always funded under fund category "06" on the SS-61, which reflects state funding only.

A child, who is not Title IV-E eligible, but has a state funded adoption or legal guardianship assistance agreement, has been determined by the state to have special medical, mental health or rehabilitative needs and cannot be placed for adoption or guardianship without medical assistance is eligible for Medicaid-FFP (fund code 05).

Prior to final adoption or guardianship, staff must assure that the child's KIDS account, if any, does not exceed \$999.99. If it exceeds this amount, the fund category must be changed to "03" until the amount is below \$999.99.

As required by the adoption or legal guardianship subsidy agreement, adoptive parent(s) or legal guardians have responsibility for reporting changes of income and/or resources to the Social Security office. In addition to this, staff should confirm if the child remains SSI eligible when conducting the annual review.

<p>NOTE: The Payment Unit will notify SSA when final adoption/guardianship occurs. This will result in immediate termination of the Children's Division as payee for SSI. To avoid a lapse in payment, application by the adoptive parent(s) should be made promptly.</p>
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- I. The date agreements are signed is important in relationship to the court's adoption proceedings. Subsidy must be in place before finalization. The Eligibility Specialist (ES) may determine fund code eligibility and authorize

payment from adoption subsidy fund codes (fund codes 03, 04 and 05) only after the following criteria have been met:

1. Termination of Parental Rights has been granted on at least 2 parents or the parents are deceased;
2. The family has been identified as the adoptive placement as shown in fields 47 and 47b on the SS-61;
3. An adoption petition has been filed with the court; and
4. An adoption subsidy agreement has been approved and entered into the contract management system.

The agreement must be signed by the Division Director before the court grants the decree of adoption, except under special circumstances. (See Item P.)

NOTE: A child's actual placement type (field 47) must be changed just before the referral to the Eligibility Specialist for subsidy funding determination is made. The placement type should be ADF, ADO, ADR or FAH. This must be on the SS-61 for the eligibility specialist to make a determination. At this point, the child's plan is adoption, the necessary steps have been taken for adoption subsidy funding, and foster care funds and Professional Parenting incentives are no longer appropriate. Prior to the subsidy funding determination, the worker may indicate the pre-adoptive placement on the SS-61 without changing the placement type.

NOTE: The adoption subsidy agreement may be completed and approved prior to the petition being signed, as long as the goal is adoption by the family that is signing the subsidy contract. The contract however, cannot go into effect until after the petition is filed and the funding source has been changed by the Eligibility Specialist.

NOTE: The guardianship subsidy agreement may be completed and approved prior to the guardianship being ordered, as long as the goal is guardianship by the family that is signing the subsidy contract. The contract however, cannot go into effect until after the guardianship is ordered and the funding source has been changed by the worker. The begin date on the child's SS-61 shall be the date the guardianship was awarded.

Expenses to be paid under the legal guardianship agreement will only occur after legal guardianship has been granted by the probate court to a qualified relative as defined by Missouri Statute 453.072.

Eligibility Specialists are the only staff who have the authority to change fund codes with the exception of Subsidized Guardianship. Fund code "06" is

automatically entered by the system in cases of subsidized guardianship. When a IV-E determination needs to be completed, workers are to request that this be done by the Eligibility Specialist for their office.

The Eligibility Specialist needs the following information in order to complete a determination. If the child is from a private agency, the worker from the private agency is to obtain this information for the CD's referring worker:

- CS-IV-E/FFP-1
- information about the home from which the child was removed
- removal petition,
- court order that placed the child in the agency's custody
- date the adoption petition was filed
- date TPR occurred
- date adoptive placement began
- begin date on adoption subsidy contract

- J. OASDI benefits used for the cost of the child's care while in other types of out-of-home care can be received by the child after adoption or guardianship. Adoptive parent(s) and guardians are encouraged to make application for these benefits with the SSA office before making use of either of the Division's IV-E or HDN funding resources for a child's subsidy. Workers should make prospective adoptive parent(s) and guardians aware of this resource and assist them in making application when indicated.

A subsidy agreement can be developed using IV-E or HDN funds along with the OASDI grant if needed.

NOTE: The Payment Unit will notify SSA when final adoption/guardianship occurs. This will result in immediate termination of the Children's Division as payee for SSI/OASDI.

- K. Adoptive parent(s), after the adoption is granted, may become eligible for OASDI benefits, thus making the child for whom they are receiving adoption subsidy payments, eligible for OASDI benefits.

NOTE: An adopted child's income due to the receipt of OASDI income related to an adoptive parent's disability is an available resource to the family. It is not automatically applied against any maintenance payment included in an adoption subsidy agreement.

If an adopted child receives such income, the following steps should be taken:

1. The adoptive parent(s) may notify the Children's Division if the adopted child receives benefits from OASDI due to the adoptive parent's disability;

2. Staff shall assess with the adoptive parent(s), based on the resources now available, whether services authorized in the adoption subsidy agreement should be increased, decreased or remain the same, and
 - a) If the adoptive parent(s) requests a change in the services and/or payment amounts, they must submit a new CS-SA-2 Attachment, readjust the services and payment amounts, as needed, or
 - b) If the adoptive parent(s) indicates the family resources continue to be adequate to meet the needs of the child, continue the current CS-SA-2 Attachment until the next review.
 3. Upon a change in the subsidy agreement attachment, the worker should note the receipt of this information in the narrative section of the subsidy file;
 4. Submit the completed CS-SA-2 Attachment, as necessary, to the Contract Management Unit (CMU) for signature by the Division Director.
- L. Subsidy agreements may be reassessed at the request of the adoptive parent(s) or legal guardian(s) when changes in the needs of the child or the circumstances of the family are indicated by the annual review.
- M. Adoptive parent(s) or legal guardian(s) are expected and required to cooperate in the annual review process. Such cooperation includes supplying information regarding the family and the eligible child's circumstances as determined by the Division to be needed. This information will be used to establish the services and amount of payment for the services included in the agreement.
- N. Kinship providers are eligible for an adoption subsidy. Such subsidies are to be handled as if an unrelated family was adopting the child, (i.e., meet all the eligibility requirements of the program.) For legal guardianship subsidy, a grandparent, aunt, uncle, adult sibling, or adult first cousin must have obtained legal guardianship of the eligible child.
- O. Payment for legal guardianship subsidy will occur after it has been determined that legal guardianship has been granted by the court to an aunt, uncle, grandparent, adult sibling or adult first cousin of an eligible child and the agreement is signed by the Division Director.

<p>NOTE: When developing a subsidized guardianship, a copy of the order giving the Division, DYS, DMH or the private agency custody, and a copy of the guardianship order must be provided with the subsidy paperwork</p>

- P. To meet costs for a service that may be needed anytime after the final decree, but before the child's 18th birthday, adoption subsidy agreements should be completed prior to the granting of the final decree. Legal guardianship agreements should be completed after the probate court has granted legal guardianship to a qualified kinship. This policy is intended to serve those children for whom an adoptive or kinship family may need future assistance in meeting the cost of special needs, but who may not require such assistance at the time of placement or adoption completion. **It is important that the condition or special needs of the child exist at the time the child is placed with the family.** These agreements must be reviewed annually to determine if the family wishes continued assistance or if such assistance continues to be needed. They may be renewed without completion of a new CS-SA-2 or CS-LG-2 if no changes are indicated by the review. An agreement attachment must be processed to authorize payment for additional services when they are needed.
- Q. For confidentiality purposes, the child's name used in all business and record keeping transactions should be the name stipulated in the final decree of adoption. This includes the records of the Children's Division as well as the records used by vendors from whom we are purchasing a service as a part of the adoption subsidy agreement. All records should be changed after the final decree except for the first Adoption Subsidy Application (CS-SA-1) and the Adoption Subsidy Agreement (CS-SA-2). When preparing a new Attachment for a CS-SA-2, the child's new name should be used. A cover memorandum to CMU should note the child's name has been changed from that entered on the Agreement. Forms prepared subsequent to final adoption must make use of the child's new name.

NOTE: A child's DCN will not be changed because of adoption.
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- R. When reviewing an agreement after the final decree of adoption is granted or legal guardianship has been obtained, information from other treatment and rehabilitative services may be required by the Division. This information may be obtained by the adoptive or kinship parent(s) or by the Division after obtaining, from the adoptive or kinship parent(s), an authorization for release of the information.
- S. Agency staff should refer adoptive parents who request information regarding reporting adoption subsidy payments for income tax purposes to the Internal Revenue Service or their individual tax preparer.

NOTE: 135.327, RSMo, states: "Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under Chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be
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eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted."

This income tax credit is not allowed if the nonrecurring adoption expenses were paid through funds received under a federal, state, or local program; and, if the child is over age 18 at the time of adoption, unless the child has a condition which limits his ability to live independently; or, the juvenile court temporarily or finally relieves the adoptive parent(s) of custody of the child. The federal government offers a similar credit which is described in IRS Publication # 968.

Related Subject: Chapter 30, Attachment F of this section, Missouri Special Needs Adoption Tax Credit.

30.5 Child's Eligibility Criteria for Adoption or Legal Guardianship Subsidy

NOTE: Children coming from other states or countries for adoptive placement with a family who are residents of Missouri are not eligible for the Missouri Adoption or Legal Guardianship Subsidy Program. However, if the child is in the custody of a private child-placing agency and is IV-E eligible, Missouri is required by federal rule to provide adoption subsidy assistance to these children.

Children in the custody of Missouri juvenile courts are not eligible for an adoption or legal guardianship subsidy even though they may receive a payment while in other types of out-of-home care.

According to Missouri Statute, step-parent adoptions are not eligible for adoption subsidy.

- A. The child must be under the age of 18 at the time of adoptive or kinship placement.

NOTE: A subsidy may continue through the month of the child's 18th birthday. If the mental, physical, dental, or emotional condition of the child requires care after the age of 18, payment may be continued until age 21 with the necessary annual documentation of the child's condition and approval of Regional Office staff. A new attachment must be submitted each year.

Subsidy may continue through the month of the child's high school graduation if the child has not completed high school at age 18. If the child is being home schooled or is enrolled and attending a GED program, subsidy may continue up to six months following the month of the child's 18th birthday. The Regional Office must give approval and a new agreement negotiated and approved by the Division Director.

B. At the time of planning for adoption or legal guardianship, the child must be in the legal custody of one of the following:

1. Children's Division;
2. Division of Youth Services (DYS);
3. Department of Mental Health (DMH);
4. A child-placing agency licensed in accordance with sections 210.481-210.531, RSMo;

NOTE: In most private adoption situations, such children will be adopted by the person having custody and will not be eligible due to having an adoptive family "readily available." However, special circumstances may exist which indicate that it is in the child's best interest to receive an adoption or legal guardianship subsidy. These cases must be reviewed by the Regional Office to determine eligibility. The only funding source available is Adoption Subsidy-HDN.

C. In the case of legal guardianship, the birth parents must have consented to the guardianship action taken by the probate court.

D. A "child with special needs" (as defined in Section 473 © of the Social Security Act) meets the following conditions:

NOTE: Children placed in the custody of the Division with a history of abuse and/or neglect may be defined as children having special needs and, therefore, eligible for subsidy.

1. "The child cannot or should not be returned to the home of his/her parents";
2. It has been determined that there exists, with respect to the child, a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive or kinship parents without providing subsidy assistance;
3. That, except where it would be against the best interest of the child because of such factors as the existence of significant emotional ties with prospective adoptive or kinship parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents or kinships without providing subsidy assistance;

NOTE: A single child who is a member of a sibling group and who is later placed for adoption or legal guardianship as a single child (not placed with the sibling group in the same family) must meet the adoption/legal guardianship subsidy eligibility criteria as a single child. This applies in any subsequent replacements for adoption or legal guardianship due to a disrupted adopted or kinship placement.

4. Has a condition (i.e., a state of health or behavior) which results in a guarded prognosis (although the child may appear normal) due to mental illness or retardation, drug usage by, or venereal disease of the parents; and/or
5. Has a history, which includes circumstances such as long-term out-of-home care, incest, or social or genetic complications in the family background, which provide other impediments to adoption or legal guardianship.

NOTE: A child with an intellectual and/or emotional limitation must have the condition documented by appropriate professional evaluation before subsidy can be approved. (Reference: 13 CSR 40-38.020)

- E. Recruitment efforts must have not produced appropriate adoptive parent(s) who could care for the child without the assistance of an adoption subsidy.
- F. An adoptive family is not "readily available." An exception is a child who is in the custody of the agencies listed above and is being adopted by a foster parent(s). If the child has established significant emotional ties to the foster parent(s) and it is in the child's best interest to be adopted by that family, subsidy may be approved.

NOTE: For purposes of adoption subsidy, a "readily available" family means: "a family is willing to accept the child and is appropriate to meet the child's special needs and states they do not need a subsidy."

30.6 Case Manager/Service County Responsibilities - In-State Placements

- A. Establishing the first adoption or legal guardianship subsidy agreement:
 1. The adoptive or kinship family's Children's Services Worker (i.e., case manager) is responsible for completing the subsidy forms. The child's case manager and service worker, if applicable, shall cooperate by sharing information necessary to complete the adoption or legal guardianship subsidy forms.

2. In cases when the basic subsidy package is being requested, the Circuit Manager may approve the agreement and send it directly to Contract Management in Central Office.
 3. The Regional Office, to which the family's case manager county is responsible, will have the responsibility for approving the adoption or legal guardianship subsidy plan and agreement in cases when additional services are requested.
 4. When a placement is made with a family and county lines are not crossed, the local office determines which worker, the child's or the adoptive or kinship family's worker, will process the forms. However, in keeping with the intent that the adoptive or kinship parent(s) will have full responsibility for the child, it is recommended that the adoptive or kinship family's worker take responsibility for processing the forms. It will be necessary for the child's worker to assist in providing necessary information for the effective completion of the forms.
 5. The authorizing worker who completes all authorizations for contracted/purchased service will always be located in the county of the child's residence, unless the child is out of state. The payment designee will always be the individual with that role in the child's county of residence.
- B. Ongoing maintenance of an adoption or legal guardianship subsidy agreement:
1. Case management responsibility for the annual review and any needed renegotiation of the agreement is the responsibility of the county office where the family resides.
 2. Case management responsibility also includes any case activity needed to support the terms of the agreement.
- C. Families, approved by another agency and accepting a child in the custody of the Children's Division for placement, should work with the approving agency to develop the subsidy agreement. The approving agency, with assistance from the case manager county or adoption specialist, is responsible for completing the subsidy agreement. Approval for the agreement remains the responsibility of the Children's Division.

Related Subject: Chapter 30, Attachment C of this section, Other Agency Use of Adoption Subsidy.
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30.7 Application Process

1. Any child in the legal custody of the Division is eligible for adoption subsidy funding. The child should also meet all of the following criteria:

- a) The child's permanency goal is adoption;
- b) Termination of Parental Rights has been granted on at least 2 parents or the parents are deceased;
- c) The family has been identified as the adoptive placement as shown in fields 47 and 47b on the SS-61;
- d) An adoption petition has been filed with the court; and
- e) An adoption subsidy agreement has been approved and entered into the contract management system.

NOTE: This also includes children in the custody of DYS, DMH and Missouri licensed child-placing agencies who meet special needs and readily available criteria.

2. Give the prospective adoptive parents a copy of the adoption subsidy brochure (CS-350) and be available to discuss any questions.

NOTE: Children coming from other states and countries are not eligible for a Missouri adoption subsidy. Except that, a child eligible for adoption subsidy-IV-E is eligible for Medicaid in any state of residence.

Special needs children coming from other states may be eligible for payment of nonrecurring adoption expenses only, if the adoption will be completed in Missouri and the child is not eligible for the Missouri Adoption Subsidy Program (MASP) or the sending state's adoption subsidy program.

Related Subject: Chapter 30, Attachment D of this section, Nonrecurring Adoption Expense for Special Needs Children Not Eligible for the Missouri Adoption Subsidy.

Special needs, IV-E eligible, children from other states, who are in the custody of a private child-placing agency, coming to live with a family who lives in Missouri are eligible for Missouri Adoption Subsidy. An Eligibility Specialist must determine the fund code eligibility. It is the responsibility of the private agency to obtain the necessary documentation for the Eligibility Specialist. If the child is not IV-E eligible, Missouri is not responsible for subsidy coverage.

3. Review subsidy program with prospective family including requirement to make application and develop an adoption subsidy agreement.

Related Subject: Children's Services Forms Manual, Instructions for CS-SA-1, 2, 2 ATT and 3.

4. With the prospective family, assess and identify needs of child for which prospective adoptive parent(s) might require financial assistance and provide copy of CS-SA-1, and 2 to prospective adoptive parent(s).

NOTE: A complete set of subsidy forms, CS-SA-1, CS-SA-2, CS-SA-2 ATT or CS-LG-1, CS-LG-2, CS-LG-2 ATT, are to be completed for each child being either adopted or placed under guardianship. As services are requested or need to be updated, the only form needed to be changed is either the CS-SA-2 ATT or CS-LG-2 ATT.

- a) Refer family to SSA office for SSI application and eligibility determination if child has been receiving SSI and family accepts child for adoptive placement.

NOTE: Eligibility for SSI is determined by the SSA office on the basis of disability and family's income, among other things. An adoption subsidy family may decide which assistance program to use for the maintenance payment ("IV-E Adoption Subsidy" or SSI), if the child is eligible for IV-E adoption subsidy. If they decide to receive both, the SSA office may reduce their SSI payment dollar for dollar to the amount of maintenance, as the SSI program is income-based.

Consult with nearest SSA office for further guidance in planning the choice of a funding resource if further assistance is needed.

- b) Refer family to SSA office, if child has been receiving OASDI benefits and family accepts child for placement.

NOTE: OASDI death benefits will follow a child into a legally established adoptive family relationship. The adopted child may receive OASDI and maintenance benefits together.

- c) Determine child's continued eligibility for IV-E alternative care funds via referral to the ES using the CS-IV-E/FFP-2. Children who have a subsequent adoption/guardianship because of the dissolution of their adoption/guardianship or the death of their adoptive parents continue to be eligible for assistance under Title IV-E or Missouri funded subsidy in a subsequent adoption if they were previously eligible. In order to determine this, all criteria noted earlier in section 30.7.1 items a-e must be met.

The CS-IV-E/FFP-2 must be placed in the family's subsidy file in order to provide documentation of the eligibility determination.

NOTE: This determination request must be sent within five (5) days of an adoptive placement. Title IV-E eligibility must continue in order for adoption

subsidy IV-E fund category to be used when the CS-SA-2 is approved by the Division Director.

5. Receive completed Adoption Subsidy Application(s) (CS-SA-1) from family.
6. Obtain family's estimate of meeting payment for needed care of the child. In doing this, reference should be made to the information supplied in the CS-SA-1 in comparison to the known needs of the child (and any of the child's available resources, if applicable) for which payment will be required.

NOTE: While not required in order to adopt, if a family carries private insurance for their child, the physician must first use the family's own private medical/dental insurance as the primary, using Medicaid as the secondary insurance. The Division will not supplement the payment made by private insurance. Any exceptional services not covered by private insurance or Medicaid must be requested and approved before payment may be made. Appropriate documentation is required with the request. Payment for emergency care not covered by Medicaid may be authorized, if necessary, after the service is provided. When exceptions need to be made, the packet needs to be forwarded to the Regional Office designee after the Circuit Manager/Designee's signature is obtained.

7. Determine which fund categories will be used to meet payment for services including maintenance using Instructions for completing the SS-61, CS-67 and CS-67A, CS-KIDS-2, and CS-SA-2. Obtain Regional Office approval for special services expenses which exceed policy limitations.

NOTE: Services provided by Medicaid are automatically covered. It is important that families inform the provider of the child's eligibility for Medicaid if adoptive parent(s) are expecting the Division to pay for any portion that third party insurance will not pay (includes the deductible provision of third party insurance). If the third party insurance provider is not a Medicaid provider, Medicaid will not pay.

NOTE: It is the responsibility of the Regional Office to request assistance of appropriate Central Office staff if costs for a service appear to exceed reasonable charges for the specific service.

8. Complete the CS-SA-2(s) and its attachment(s) based on the information collected in the CS-SA-1(s) and the interview with the adoptive parent(s).

NOTE: Any services not under contract with this Division or DMS must have prior authorization and supporting documentation (See instructions for the CS-SA-2 for further guidance.)

9. Review completely the CS-SA-2(s) with the family before obtaining the required signatures and:
 - a) Inform adoptive parent(s) that a proposed agreement must be approved and signed by the Division Director; and, payment will not be made until the Division Director has signed the agreement;
 - b) Advise adoptive parent(s) of their right to file an appeal, as specified in the CS-SA-2(s), on all or any part of an adoption subsidy agreement as signed by the Division Director; and

NOTE: Adoptive parent(s) may appeal a decision item which was not approved, but was requested on the attachment. Their request must be received within 10 days of their written notice of the adverse action.

30.8 Approval Process

1. Process the completed subsidy forms, CS-SA(LG)-1, CS-SA(LG)-2 and CS-SA(LG)-2 ATT, routing them through the Circuit Manager or his/her designee, and when exceptions to the basic subsidy package are involved, to the Regional Office for the necessary approvals. (Also, see Children's Services Forms Manual, instructions for the CS-SA(LG)-1, CS-SA(LG)-2 and CS-SA(LG)-2 ATT)
 - Include an IOC to CMU if the name of the child is different from the name reported in ACTS.

When subsidy agreements are renegotiated, subsequent to the first agreement, the child's name as granted in the final decree of adoption should be used as needed on the subsidy forms.

2. Submit the CS-SA(LG)-2 CS-SA(LG)-2 ATT to CMU in Central Office with any necessary IOC's. CMU will return copies of CS-SA(LG)-1 to the county.
 - Return the CS-SA(LG)-2 and all supporting information to county office if the agreement is not approved or changes are required.
3. Receive two (2) copies of the CS-SA(LG)-2 from Contract Management Unit (CMU), Management Services Section, Central Office, after signature of the Division Director.

NOTE: CMU will send one (1) copy of the CS-SA(LG)-2 to the Regional Office at the same time it forwards the two (2) copies to the county office.

4. Forward one (1) copy each of the completed CS-SA(LG)-1 and 2, to the adoptive parent(s)/guardian with a **cover letter** which includes the following information:

- a) Renewal of the agreement on June 30 of each year occurs if no changes are indicated as a result of the annual review or the adoptive parent(s) have not requested changes during the review period;
- b) Prices of services specified in the agreement attachment are fixed. Changes in the agreement attachment may be requested by adoptive parent(s), but will require the renegotiation of the CS-SA(LG)-2 attachment;
- c) The right to appeal the terms of the agreement as specified in the attachment;

NOTE: Workers may wish to use the following statement in their letter to the family regarding the decision of the agency:

"If you disagree with this decision to reject, reduce benefits or to close your case, you have the right to request a hearing within 10 days of this letter. If you request a hearing, you may present your information yourself or you may be represented by your own attorney or by other persons who have knowledge of your situation. You have the right to present witnesses in your own behalf and to question witnesses who appear at the request of the Children's Division. "

- d) Responsibility to keep the Division informed of changes in circumstances of the adoptive parent(s) or the child(ren) relating to the receipt of an adoption subsidy;
 - e) Encouragement and support for the continued success of the placement;
 - f) The Division's willingness to assist them in renegotiating the agreement attachment as necessary and at their request;
 - g) The Division's availability to answer any questions regarding the subsidy.
5. Update the SS-61 and SS-60, consistent with subsidy agreement, to begin payment for maintenance and other services effective with the date of the director's signature. (Also, see instructions for the SS-61 relating to the child's change of name at time of final decree.)

NOTE: Maintenance payment from adoption subsidy-IV-E funds must begin after a petition to adopt has been filed with the court, and the IV-E determination has been completed. For the child to remain eligible for adoption subsidy-IV-E, the agreement shall have been signed by the Division Director, prior to the final decree of adoption.

6. Report availability of third party medical/dental insurance via use of TPL-1 if child is covered through the family's policy. The TPL-1 is to be sent to Medical Services by the adoption worker with a copy in the adoption subsidy file.

30.9 Maintenance of the Agreement

1. Provide case activity to assure payment for services covered by the agreement.

NOTE: If the child is receiving SSI, OASDI or VA prior to final adoption, PDSU will notify the Social Security Administration (SSA) or Veteran's Administration when final adoption occurs. The KIDS account must be closed following the instructions in Section 4, Chapter 11, Financial Support Planning. It may be necessary to complete a new CS-SA-2, depending on the need of the child and the child's continued eligibility for these funding sources.

2. Authorize necessary contracted services using CS-67 and CS-67A (fund code 03-HDN or 04-IV-E), after obtaining clearance and the signature of the authorizing designee.
 - According to your Regional practices completed CS-67 and CS-67A for residential treatment with a contracted provider are to be entered into the SEAS system. Out of state providers must have a child specific contract with the Children's Division in order to receive payment. The provider must submit a child specific contract to the CMU for negotiation.

NOTE: When services are authorized on the CS-67A to a contracted provider an invoice, CS-65A, will be generated automatically on a monthly basis. The provider will submit invoices for payment to the payment designee.

3. Authorize payment, via CS-65, for non-contracted provider through the adoptive parent. A "paid" receipt must be attached to the CS-65 for reimbursement to the adoptive parent(s). Requests for reimbursements must be received within the six months of the service being provided to ensure payment.
4. Adoptive parent(s) may request renegotiation of the agreement at any time.

NOTE: When a county office changes their address, a letter should be written to all adoptive parent(s) receiving a subsidy through that office providing the new address. It is not necessary to revise the agreement (CS-SA-2).

5. There are certain circumstances that may occur and call for a new contract to be developed for the child. These are:
 - a. If an adoptive parent or guardian changes their name, a new contract with her new name is necessary. A copy of a new Social Security Card,

driver's license/state identification card, or their new marriage certificate with their new last name indicated, is required to accompany the new contract with the new name change.

- b. If there is a marriage and the new spouse adopts the child. A copy of the adoption decree is required to accompany the new contract with both names added.
- c. If a divorce occurs and one parent is assigned physical custody or to receive the subsidy. A copy of the custody order is required to accompany the new contract with the custodial parents' name included.
- d. If an adoptive parent or guardian dies, a new contract is needed in the name of the remaining parent. A copy of the death certificate is also required to accompany the new contract.

30.10 Review Process

- 1. Provide written notice to the family at least sixty (60) days prior to the annual review regarding need to review the subsidy plan.

NOTE: Annual reviews are measured from the date the agreement or the attachment was last signed by the Division Director. Reviews may be conducted anytime during the fiscal year, but at least once per fiscal year. Counties have the flexibility to determine an advantageous workflow for completing the reviews which considers the needs of the children and adoptive parent(s).

NOTE: Subsidy contracts (not attachments) are automatically renewable June 30 if the annual review indicates no changes in the agreement are required and the child has not reached age 18. Changes in any portion of the agreement will require a new attachment.

- 2. Review subsidy need within 60 days prior to the end of the review period applicable to the specific adoption subsidy agreement.
 - a) Obtain review and approval from the Regional Office for subsidy to continue beyond 18th birthday if a child with a mental, physical or dental condition requires extraordinary care after age 18.

NOTE: The condition must be documented by appropriate treatment professionals and may only be approved for one year at a time.

- b) Obtain Regional Office approval, prior to the child's 18th birthday, to continue a child's subsidy beyond age 18 if child has not completed high school prior to or in the month of his/her 18th birthday.

NOTE: Subsidy may be continued through the month of the child's graduation.

IV-E eligible children who will not complete high school prior to their 19th birthday must be switched to HDN-Adoption Subsidy the month following their 18th birthday, if the subsidy is to be continued until the child's month of high school graduation.

- c) If a child is approved for continued eligibility for subsidy after he/she reaches age 18, and no attachment is included with the CS-SA-2 (i.e., no services other than Medicaid are authorized), send an IOC to CMU indicating that the child remains eligible.

NOTE: This must be done so the child will remain eligible for Medicaid.

3. Renegotiate subsidy plan and submit attachment(s) to Regional Office for review and approval, to maintain an accurate CS-SA-2.

- a) Obtain a new CS-SA-1 from the adoptive parent(s) if:

- The adoptive parent becomes eligible for OASDI due to a disability and the child also receives an OASDI grant and the adoptive parent(s) indicates a change is needed in the services and payment amounts included in the agreement; or,
- Adoptive parent(s) requests agreement changes because of a change in financial circumstances including receipt of OASDI due to retirement.

4. Complete revised attachment(s), if one of the following events occur:

NOTE: When submitting revised CS-SA-2 Attachments to CMU for the first time after final adoption, submit an Inter-Office Communication (IOC) to CMU reporting the child's new name. (See instructions for the CS-SA-2.)

If a specific contracted provider used for a special service is changed to another, complete and enter, a new CS-67A. (Changes in residential treatment services provider are reported to the Regional Office RCST Coordinator.)

- a) Adoptive parent(s) request changes;
- b) Annual review indicates changes are needed;
- c) The review conducted after the notification and receipt (after adoption) of OASDI benefits due to the disability of the adoptive parent indicates a change is needed in the subsidy services and payment amounts;

- d) After final adoption, the family becomes eligible for OASDI benefits, and the annual review indicates that the nature and amount of benefits should change, due to the needs of the child and the changed circumstances of the adoptive parent(s).
- e) After final adoption, the child is again determined eligible for SSI and the child's needs change.

NOTE: At each annual review it is necessary to inquire regarding the family's continued eligibility for SSI. No changes are needed in the CS-SA-2 Attachment unless the child's needs change and the adoptive parents request that the agreement be reassessed.

- f) Child reaches age 18 and has special needs/circumstances which warrant the continued use of a subsidy until the need no longer exists or the child reaches age 21, whichever occurs first;
- g) Child requires residential care services.

NOTE: Refer to Regional Director for approval. If the child is approved for residential treatment services, update the SS-61, changing the date of placement and showing a sub placement type of "s", leaving the adoptive parents in the placement field. Upon entry of the "s" sub placement type, a new screen will appear in order to enter information regarding the residential placement. (Also, see SS-61 Instructions.)

NOTE: If it becomes necessary to arrange care for the child away from the adoptive parent's home, it is not necessary for custody to be transferred to the Children's Division. Payment, if needed, for certain services can be arranged through renegotiation of the agreement. It is to be remembered that the adoptive parent(s) retains legal rights, obligations, and duties, just as any parent(s), even though care must be provided for the child away from the home.

- 5. Send written notice to adoptive parent(s) if any of the following decisions are made:
 - a) Any portion of the proposed agreement (at initial application or annual review) is not approved by the county or Regional Office; or,
 - b) The proposed agreement is not approved by the county or Regional Office.

6. Include the following information in the written notice:
- a) Reason(s) why the proposed agreement, or any portion of a proposed agreement, has not been approved;
 - b) Information regarding the adoptive parent(s) right to appeal the decision;
 - c) Method for requesting an appeal; and
 - d) Request that they contact worker to make any necessary adjustments in the agreement or to file the appeal.

NOTE: Workers may wish to use the following statement in their letter to the family regarding the decision of the agency:

"If you disagree with this decision to reject, reduce benefits or to close your case, you have the right to request a hearing within 10 days of this letter. If you request a hearing, you may present your information yourself or you may be represented by your own attorney or by other persons who have knowledge of your situation. You have the right to present witnesses in your own behalf and to question witnesses who appear at the request of the Children's Division. "

30.11 Termination of the Subsidy Agreement

1. Close subsidy via the SS-61 if any of the following events occur:
 - a) The child reaches age 18 or age 21 (if child's condition is extraordinary).; or,
 - The date of closing is the first day of the month following the month the child reaches age 18 or 21, if applicable.
 - b) At the request of the family; or,
 - The date of closing is the date of the request. The worker is to document in the narrative section, the parent's request to terminate subsidy and if known, the reason.
 - c) Upon determination that the child is no longer receiving any financial support from the adoptive family; or,
 - The date of closing is the date child is determined as no longer receiving financial support. Extensive supportive documentation must be present in the file. Some examples include:

- The child is placed out of the adoptive home. Obtain documentation from the current and/or past caregivers detailing the parent's lack of support by not providing for the child (i.e., clothing, gifts, daily essentials, school supplies, etc.)
 - The child applies for assistance through the Family Support Division (FSD) as they are no longer living in the adoptive home, or receiving support from the subsidy. Utilize the FSD records as documentation.
- d) Upon determination that the adoptive parent(s) are no longer legally responsible for the support of the child (TPR has occurred); or,
- The date of closing is the date the adoptive parent is no longer legally responsible for the support of this child. This can include divorce or a court's action of terminating parental rights.
- e) In the event of the death of the subsidized child; or,
- The date of closing is the first day of the month following the month of the child's death.
- f) In the event of the death of both adoptive parents or the death of a single adoptive parent if the subsidy was granted to a single adoptive parent.
- The date of closing is the first day of the month following the month of the death of the adoptive parent(s).
2. Update SS-60 and SS-61 appropriately at closing.
3. Close CS-67 and CS-67A, as appropriate.
- Notifications from the SEAS system will be sent to both adoptive family and provider, giving at least a ten (10) day notification prior to closing, based on the closing date identified on the CS-67 and CS-67A.
4. Send written notice to adoptive parent(s) within 30 calendar days prior to closing.
- a) Include in the written notice:
- The reason(s) why the agreement is terminated; and,
 - The child's name, DCN, and actual date of closing.
- b) Send written notice to family caring for child or executor of estate if adoptive parent(s) are deceased.

5. Receive notice from CMU that the agreement will be terminated in the contract system 15 days from the date CMU received a termination report unless information is received by CMU that the agreement is not terminated.
 - Report to CMU immediately, if agreement was terminated in error and make necessary corrections in ACTS.
6. Record all activities as needed, but at a minimum, at the annual review and within 10 days of agreement date (i.e., the date the agreement is signed by the Division Director).

30.12 Miscellaneous

30.12.1 Appeals

The adoptive parent(s) and legal guardian(s) have the right to appeal any decision of the Children's Division related to an adoption or legal guardianship subsidy agreement through the process of a fair hearing. The family must complete the IM-87, Fair Hearing request, within 10 days of their written notice by the agency of the adverse action regarding the denied subsidy request. Upon request, the worker may complete the form, IM-87. The family does not need to sign the form prior to the request being forwarded on to the Hearings Unit. Signature must simply be obtained prior to the hearing. The worker must send the family's request for a fair hearing (IM-87) to the Hearings Unit for their area within 24 hours of the date the parent's request.

If the worker completes the IM-87, be specific as to what the parent's request is, reading it to the parent for accuracy before sending it to the Hearings Unit.

When a family is unhappy with a decision regarding a subsidy request made by them, the worker is to arrange an appointment with them, in person, prior to the fair hearing, if one was requested. This meeting should include the supervisor and Circuit Manager. If some things are negotiated, inform the Hearing Officer the issue has been resolved; therefore, it does not need to be addressed in the hearing. **The county office is to inform the Hearing Officer of these resolutions.**

NOTE: When a hearing is scheduled, send supporting documents prior to the hearing. These documents could include, but are not limited to: denial letter, the attachment (CS-SA-2 ATT/CS-LG-2 ATT), previous attachments, previous decisions, policy that supports the Children's Division decision, changes in policy that support the decision, and a list of services the family has been approved for in the past.

It may be helpful for the worker to have a Children's Division attorney in some of the more complicated situations. If the family has an attorney, The

Children's Division should also request representation from the Division of Legal Services.

The Children's Division will not pay for the parent's attorney's fees.

Related Subject: Section 6, Chapter 7.1, Children's Services Fair Hearing Process.

30.12.2 Deceased Adoptive/Kinship Parents

Eligibility for adoption or legal guardianship subsidy payments ceases with the death of both adoptive or kinship parents, or in the case of a single parent adoption or placement, with the death of that adoptive or kinship parent. If resources from the parent's estate or survivors benefits, such as insurance or OASDI, are insufficient to provide for the child, application could be made for AFDC or SSI. Should the child have a subsequent adoption/guardianship, they would be eligible for subsidy in their new placement.

NOTE: If the child's adoptive or kinship parents die or terminate their parental rights, the child will once again be IV-E eligible.

30.12.3 Divorcing Adoptive Parents or Guardians

When adoptive parents or guardians enter into a separation or divorce situation, it often becomes necessary to take one of the parents off the subsidy contract. Encourage the parent/guardian to address the subsidy directly with their attorney so that the court can perhaps order one parent to receive the subsidy. The Division does not have the authority to remove one parent from the contract without supporting documentation and a court order. In order to do this, one of the following must occur:

1. There must be an order from the court, assigning one of the parents physical custody of the child(ren) covered under subsidy. This order could be a full child order of protection or a custody order; or
 - a. If the order is a full child order of protection, the worker may take the non-caretaking parent's name off the SS-60 once a copy of that order is received so that the subsidy payment will be made to the parent caring for the child. A full child order of protection is valid for up to 180 days. Therefore, the caretaking parent should provide the agency with a custody order within six months, or an extended child order of protection in order to continue the subsidy in this way.
 - b. The parent caring for the child will be expected to obtain a custody order, in order to take the non-caretaking parent off the subsidy contract.

- c. Once the custody order is received, a new contract and attachment are to be completed.
2. The parent who is not caring for the child agrees to be taken off the subsidy contract; or.
 - a. The parent caring for the child must provide a written request to the Division, requesting that the non-caretaking parent be removed from the subsidy contract.
 - b. The non-caretaking parent must provide a notarized statement regarding their agreement to this action, to be placed in the file.
3. If the parent receiving the subsidy payment is not financially supporting the subsidized child with the subsidy, specific documentation of this must be utilized in order to close the subsidy due to the lack of financial support and a new subsidy agreement may be opened under the parent who is caring for the child. If this action is taken, the following steps must occur:
 - a. Write the adoptive parents or guardians a letter stating that the subsidy will be closed within 30 days due to the lack of financial support of the child(ren). Document the evidence on which this decision has been based.
 - b. Wait 30 days for a response. The parent who has been receiving the subsidy may decide to begin forwarding financial support to the care-taking parent. If so, document this information in the case dictation. If after 30 days, the care-taking parent reports continued lack of financial support from the parent who has been receiving the subsidy payment, proceed to step 4.c.
 - c. Close the old SS-60 and the old subsidy contract.
 - d. Open a new SS-60 in the name of the parent caring for the child.
 - e. Complete new subsidy paperwork, including a new subsidy agreement (CS-SA-2/CS-LG-2) with the parent caring for the child.
 - f. Change the SS-61 to reflect the new vender number.

If both parents continue to disagree on the subsidy, it is not the responsibility of the Division staff to make any decisions or take any actions without a court order. Division staff are to encourage the parents to work with their attorneys with regard to this matter.